

Message

From: Wester, Barbara [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CEA2B9B4C21E414495BC675184A5291B-BEWESTER]
Sent: 11/16/2017 5:16:22 PM
To: Swenson, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eaf7e8d916134568ba23121a89260045-PSwenson]; Burdick, Melanie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc0fae2c6b7a43ec8b577d3689229aea-MHaveman]; Pallesen, Reginald A. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=368d3b434e30423cbddd2e249043c016-RPallese]; Hurd, Kathy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f3b04131f1145fcb4ccf5b0a64c1ac4-KHurd]; Nalven, Heidi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b698043b7ee461198a73177935098d4-HNalven]; Melgin, Wendy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=dbbb28df2bdc444ab12eeacf50ad616b-WMelgin]
Subject: FW: request for consultation

fyi

From: Starlyn Tourtillott [mailto:stourtillott@mitw.org]
Sent: Thursday, November 16, 2017 9:22 AM
To: Wester, Barbara <wester.barbara@epa.gov>
Cc: Melissa K. Cook <mcook@mitw.org>; Janette Brimmer <jbrimmer@earthjustice.org>; John Wilhelmi <jwilhelmi@mitw.org>; Lindzey Spice <lspice@mitw.org>
Subject: [SPAM-Sender] RE: request for consultation

Barbara,

Thank you for the update. We look forward to hearing from you.

Best,

Starlyn Tourtillott
 Assistant Tribal Attorney
 Legal Department
 Menominee Indian Tribe of Wisconsin
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From: Wester, Barbara [<mailto:wester.barbara@epa.gov>]
Sent: Wednesday, November 15, 2017 1:31 PM
To: Starlyn Tourtillott
Cc: Melissa K. Cook; Janette Brimmer; John Wilhelmi; Lindzey Spice
Subject: RE: request for consultation

starlyn – thank you for your message and thoughts regarding the november 6, 2017 notice of intent to sue sent by earth justice on behalf of the menominee tribe. Region 5 EPA is in the process of coordinating with the U.S. army corps of engineers and with our national office. we will do our best to respond shortly to the questions posed in your message.

Barbara L. Wester
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 U.S. Environmental Protection Agency, Region V
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 Chicago, IL 60604
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From: Starlyn Tourtillott [<mailto:stourtillott@mitw.org>]
Sent: Tuesday, November 14, 2017 9:01 AM
To: Wester, Barbara <wester.barbara@epa.gov>
Cc: Melissa K. Cook <mcook@mitw.org>; Janette Brimmer <jbrimmer@earthjustice.org>; John Wilhelmi <jwilhelmi@mitw.org>; Lindzey Spice <lspace@mitw.org>
Subject: [SPAM-Sender] request for consultation
Importance: High

Dear Barbara,

Our Intergovernmental Affairs Manager, Melissa Cook, forwarded your recent voicemail. I am writing to clarify and follow up, at the request of Chairman Besaw, on recent communications between EPA and the Menominee Tribe regarding potential consultation on the Back Forty Mine.

To review, the Tribe and EPA have been discussing the scheduling of a meeting as a preliminary step in a consultation process over the Back Forty Mine and had scheduled a call for November 8. On November 7, Melissa Cook received an email from you indicating that the preliminary call on the 8th could not go forward as scheduled because EPA had received a 60 Notice under the Clean Water Act from the Tribe. You indicated that the Notice necessitated EPA consulting with and including its attorneys in any ongoing discussion.

The Menominee Tribe remains willing to continue this process with EPA and urges EPA to move along in the process of setting up the consultation. First, please note that the 60 day Notice is just that, a notice. It is not yet litigation and may never be litigation if the matters are resolved during the 60 day period. That is the purpose of the 60 day notice—to allow the matters to be corrected or worked out. If EPA suspends discussion with the Tribe, the point of the 60 day period is lost.

Second, based on the fact that this is not litigation, the Tribe does not see the need to include EPA's attorneys. However, if that is what EPA desires, the Tribe simply would like a clear statement on that point and then we can all quickly move forward with scheduling that includes the attorneys. Put simply, with or without attorneys, it does

not seem a reason to delay the process in which we have been engaged. A lawyer to lawyer discussion is fine, and the Tribe would like to know immediately from EPA if that is the preferred course so we can help get that set up.

Third, I want to be clear that the Nov. 8 meeting that was canceled, and what we have been discussing to date, is not the consultation itself but simply the preliminary steps toward meaningful consultation. Therefore, again, we urge EPA to quickly help us get this back on track. Also, because this preliminary call/meeting is not formal consultation, the Tribe will not be represented by Chairman Besaw at these preliminary discussions, but rather, as with EPA, will be represented by tribal staff.

I hope that these points provide clarification and that EPA will be able to work with the Tribe to keep this process moving in the next week. Our Intergovernmental Affairs Manager looks forward to hearing from you. Please also free to contact me as well should you have any questions.

Sincerely,

Starlyn Tourtillott

Assistant Tribal Attorney

Legal Department

Menominee Indian Tribe of Wisconsin

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